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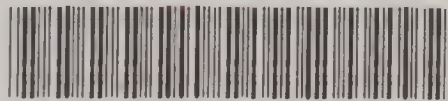
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SLAVERY—KANSAS—PARTIES THEREON.

SPEECH

OF

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HON. A. E. MAXWELL, OF FLORIDA,

1856
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IN THE HOUSE OF REPRESENTATIVES, MAY 1, 1856.



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SLAVERY—KANSAS—PARTIES THEREON.

The House being in the Committee of the Whole on the state of the Union—

Mr. MAXWELL said:

Mr. CHAIRMAN: I will continue the discussion which was renewed a few days since by the gentleman from Ohio, [Mr. STANTON,] and has been kept up by other gentlemen on the same side. We may attach what importance we please to other matters, but it is impossible not to see that the subjects of that discussion—questions connected with the rights of the southern portion of this Union, and with the government of Kansas, are to overshadow all others. They do overshadow all others here, and every preparation abroad shows that they are to do the same elsewhere, at least for several months to come. Nor do I wonder at this; for they are questions not only big with the fate of parties, but perhaps involving the fate of our Government itself. I shall address myself to those questions, considering not only our duty here, but having reference also to the action of the people in the coming elections.

If, before I heard the gentleman from Ohio, [Mr. STANTON,] and the gentleman from Pennsylvania, [Mr. RITCHIE,] I had not already chosen the line of remark to be pursued by me, I could not better maintain the cause I have risen to advocate than by presenting the counter view as to the historical facts upon which they dwelt. Had I given my mind to the investigation of those facts, I should have applied this test at the outset: whether, in the legislation of Congress, in all that line of what is called continuous legislation to the same end, there has been in any one instance, except in that of the Missouri restriction, legislation which was destructive of existing rights, or prohibitory of the exercise of such rights? It is my belief, as deduced from the history of legislation in respect to Territories, that, with the single exception named, Congress has declined to exercise any power to destroy the rights, or to prohibit the exercise of rights, claimed by the southern portion of the Union.

Those gentlemen have pointed us to the action of Congress very soon after the adoption of the Con-

stitution, in passing a bill to authorize a territorial government for the Northwestern Territory; but in that nothing was said about that part of the ordinance of 1789 which prohibited slavery there. This was simply declining, on the part of Congress, to touch the subject—to legislate upon the subject at all—acting, I presume, upon the idea, that the solemn compact between the State of Virginia and the then existing Government of the United States ought to be held binding upon the subsequent Government. It cannot be justly inferred from this, that Congress acted upon the belief, that the Constitution authorized it, of its own proper power, to deal adversely with slavery. And so, I think, it would be found, in reference to other instances of legislation: it has all along declined to act against slavery, although often importuned thereto; and hence the continuous line of precedent claimed as having established the power in Congress to legislate slavery out of the Territories, or to reach it otherwise, does not in fact exist. Nor has its exercise of power upon other important matters, such as have been mentioned to prove full and unlimited power over all matters in the Territories, gone to the extent insisted upon as to this; for, in regard to them, its action has been protective of rights, and therefore must be distinguished from action against slavery, inasmuch as that would be destructive of rights. Congress, in all its legislation, must act with a view to the ends of the Government, and, looking strictly to those ends, it would be difficult to show that it has any business in the way of shaping the domestic character of either Territorial or State institutions.

But, as I before said, my mind having been directed to other aspects of the questions before us, I shall not pretend to offer anything like a full reply to the views of the gentlemen from Pennsylvania [Mr. RITCHIE] and Ohio, [Mr. STANTON,] as to the proper teachings of past legislation by Congress. There has been heretofore such a difference of opinion as to the purport of past legislation, and as to the views of certain leading fathers of the Republic—both sides claiming these

for authority to sustain their own respective conflicting views—and there is so wide a difference now, that it is hardly probable that discussion of these points at this time will come any nearer towards adjusting them. We cannot agree as to what has been the purport of that legislation, or as to what Washington or Jefferson would do, if called to heal our present division; and hence I prefer to pass all such questions, and to go at once to deal with facts, opinions, prejudices, passions, and all this complex web of difficulties, as they actually exist, shaking and distracting the country.

Primarily, the difference between those who are in controversy upon the slavery question is to be found in their conflicting views of the nature, justice, and propriety of slavery itself. Northern belief holds it to be an evil and a curse; while in the South it is regarded as no offense against either the laws of God or humanity; and since discussion has been forced to the subject, and we have been driven to examine it, not only as connected with the social and economical interests of the white race, in regions where slavery most naturally thrives, but in the light of facts which show us the real condition of the negro in the several states of slavery, barbarism, and freedom, the southern mind (more of late years than before) is generally adopting the conclusion that the institution is a positive good. Thus radically opposed in opinion, and there being no likelihood that they will ever agree—for the more this subject is discussed and agitated, especially under the prejudices and passions which inflame large portions of the people on both sides, the wider will grow the separation of their minds—what can be done to prevent that ultimate fearful conflict which such antagonism forbodes? Will you legislate upon the assumption that one is wrong and the other right? Consider the condition into which this controversy is brought, and I think gentlemen will be ready to agree with me that such legislation would not be tolerated on either side. Reconcilement of belief is impossible; persistence in angry strife will be fatal; and the question is, where the parties can meet to gain escape, saving both the Constitution and the Union?

On both sides, sir, the watchword of the day is “aggression!” Northern men complain of it, and the South complains of it—the former, because of a supposed right to hold and keep common territory free from the introduction of slavery, which right, it is alleged, has been violated by the adoption of a policy which renders slavery possible in the Territories; the latter, because of a claim to equal participation in the benefits and enjoyments of that common territory, which is sought to be denied by anti-slavery provisos and prohibitions. The course of argument pursued by gentlemen on the other side shows that if we look to the Constitution for something pertaining to the issue thus made, so express and positive as that no one may be misled in regard to it, we will look in vain. The express words are not there to tell us what was intended. Perhaps it was not anticipated that such an issue would arise. Perhaps, if anticipated, it was hoped that it would be decided in a spirit of justice, equality, and forbearing patriotism, such as had brought forth and finished the Constitution itself.

But, though nothing express and positive can

be found to decide this point, what we do know is, that there is nothing in the Constitution to forbid the equal enjoyment of common Territory by all citizens of the United States, and nothing to authorize Congress to forbid it. That, as a general proposition, would not be denied even by those gentlemen who are so adverse to the institution of slavery. We know further that the spirit in which that Constitution was adopted, was one of toleration of all conflicting interests and all conflicting views of policy; and also, that it was intended that those acting under the Constitution should be guarded jealously against inflicting anything like State or sectional inequality. And yet further: in order that its hand might be staid from the exercise of any but impartial power, it was intended to limit the scope of the Government, and to withhold from it the possession of any power which could be used otherwise than impartially. With such knowledge of the limitations and spirit of our Constitution, and seeing that it clearly recognizes the slave interest, and throws a shield of protection over it, is it strange that southern men should hold any interference, even incidentally, against that interest, to be unwarranted and improper? Is it strange in them to feel that what the Constitution recognizes, secures, protects, men who owe fealty to it should not harshly condemn or rudely touch?

If we would determine aright between these parties, we must look to their positions and claims as they present themselves in their federated capacity. It is idle to refine on questions of abstract justice. It is idle to prate sentimentality. It is idle to speak of God-given birthrights, and of every man's inherent title to personal freedom. It is worse than idle to deify freedom in the spirit of a French revolution, as has been done by some gentlemen on this floor, while declaiming against southern slavery—thereby implying that the freedom secured by the framers of the Constitution, as it existed at that day and as it presented itself to them, is not a freedom sufficient for their descendants. Whatever may be the truth—whatever may be right, even though it lead to abolition, or, on the other hand, to an opening of all the States to slavery, we cannot move or act here except in subordination to the authority which gives being to Congress. Grant that slavery is right: then let it work its own career. Grant that it is wrong: then let it be attacked by a force legitimately empowered to attack it. To proceed otherwise than directed by these conclusions, would be to disregard the limitations and restrictions of defined government, and to throw every interest upon the mercy of a wild discretion, such as no member of the House, however eager to accomplish his purposes, will profess an inclination to do.

Looking, sir, to this mutual charge of aggression, it is evident that, so far as there is truth in it, the cause of complaint should be removed. As coming from the North, what is there to justify it? Not one of her citizens is prevented, or proposed to be prevented, by any action of Congress, or by any action elsewhere, from freely going into any Territory or any State of these United States, with all his property. There is no exclusion for him—no denial of the least privilege which any other citizen may rightfully enjoy. There is no interference with any right he may

have—social, pecuniary, or political. And if at this point gentlemen tell me that there is interference with the rights of northern freemen, because they cannot consent to go into the Territory and engage in labor there while that of slaves is permitted, I must say to them, they must make all allowance for our inability to appreciate such an argument. In the southern country, free labor and slave labor associated is not regarded as a damning degradation to the white man. So far from this, it may be safely asserted, that a majority of southern slaveholders may be found, day after day, side by side with their negroes, plowing in the same field, engaged with them in the same work. Those who have a sufficient property to exempt them from the necessity of labor, are not, of course, thus found. But the greater proportion of southern slaveholders—those having two, three, or a dozen slaves—can be seen any day in the busier seasons, laboring with their negroes. And when we see that our southern fathers think it no degradation to their sons to put them at labor with the slaves they own, as is done by numbers everywhere in the South, I repeat that gentlemen must make due allowance for our inability to appreciate that sentiment of a northern laborer, which is represented here as looking with abhorrence to any prospect of having his labor brought into near neighborhood with that of a slave. The spirit of freedom which will prevent such a man from associating his labor with that of a negro, is one that has not yet reached the people of our southern country.

How, then, has there been aggression of the South against the North? I have already said that no citizen of the North is prohibited from going to any part of the country with all his property. It surely will not be urged that there has been aggression, because we ask that the same right shall be conceded to us to go with our property that is given to others to go with theirs! Aggression, in that we claim equal rights in the common territory with others! Aggression, in that we will not submit to an odious discrimination against our property! Aggression, in that we deny the authority of others to check southern development! Aggression, in that aggression is resisted!

Is there anything, on the other hand, to justify this charge as coming from the South? She claims for her citizens and for her States perfect equality of right with all other citizens and all other States. She claims that there is nothing in the Constitution to mark a distinction between her property and theirs, to her disadvantage. She claims that the Constitution not only recognizes, but provides for the security of the slave property she holds. Nor do I understand that these claims are directly denied, except the latter, by a few such extremists as the gentleman from New York, [Mr. GRANGER.] And yet it is insisted that in Territories which belong to all alike, her citizens, if they go there, shall not merely be prevented from taking their slaves, which amounts to practical exclusion of themselves—and in that view, their equal rights being acknowledged, is certainly a wrong—but shall not be permitted to exercise, and, as far as they may, act upon their free opinion as to the policy which should prevail in forming the domestic institutions of such Territories. It is this interference with an undoubted political right

—the right of every citizen upon common territory to judge for himself as to the best state of society compatible with our American systems of government, and to use his individual influence towards establishing that state of society, so that, if there should be a sufficient number agreeing with him, they may at the proper time so declare by their action—it is, I say, interference with such a right, denied only to those whose views tolerate slavery, that gives just occasion for the complaint we make. If they are not to be deprived of their equal political rights, when the time comes for assuming the sovereignty which belongs to each confederate of the Union, they should certainly be permitted to build the new State upon the model of the old ones to which they have been accustomed, if, in the judgment of a majority there, it is preferable—those old ones, with all their social and domestic attributes, and notwithstanding the sins and the odium sought to be cast upon them, being as highly regarded and as closely cherished by the Constitution as any others, and therefore not to be stigmatized, directly or indirectly, by any organ of the Government which derives its sole authority from that Constitution. But this permission, under the policy we deprecate, is denied. Every candid mind must admit that interference such as this is a wrong upon any class of citizens affected by it. It is aggression to force the formation of States after a certain model, or rather against a certain model, whether the people prefer it or not, and that is aggression upon fundamental political rights, dearest of all others to Americans.

There is no little importance attached to the question in its connection with rights and interests pertaining to slave property as mere property; and the South, upon that point alone, will never consent to treatment which implies any wrong or fault in her title to such property. But the view I am presenting has not more importance in this connection than belongs to it as affecting the question of obvious political rights—rights which our system of Government, so far from questioning, assumes to be inalienably inherent in the people. I will illustrate. A northern citizen goes to a Territory of the United States—perhaps from the gentleman's [Mr. STANTON] district. In passing to it, he has the chance to observe the working of the slave system, to study the character of the negro, to investigate the economy of slavery, and to gather data generally for a more intelligent opinion of southern institutions than his prejudices and want of opportunity for acquiring proper information had before permitted, and the result of his inquiry has been to change his views of the justice and propriety of slavery. This is no strained supposition, for it is a thing constantly occurring in cases where northern citizens transfer their residence to the southern States. He goes to help found a new State, and must have his share of responsibility therein. In molding the institutions there, he now believes it would conduce to the well-being and prosperity of the people, and would not violate any right or law of humanity to permit the introduction of slaves; but under the prohibitory policy which anti-Nebraska men advocate he is told: "No; Congress forbids you to exercise any such belief. Though it is for yourself you are acting—though it is your own interest

and welfare you are seeking—and though in other things you are the sole and proper judge of what is best—yet upon this one thing your opinion shall in no wise operate.” Such a restriction upon a clear political right may not seem hard when applied to an individual case; but carry the illustration further: suppose the same that happens in his case should happen to whole masses of northern citizens—to enough of them to control in the formation of the State government—is it no wrong, no hardship, that they are utterly denied the exercise of their opinion and preference as to the nature of the institutions under which they are to live? Why, sir, such interference would not be tolerated a moment if it related to any other question of domestic polity—certainly not if it related to any that came under the view of those who framed the Federal Government. It would be denounced as an unauthorized and meddlesome attempt to shape State policy by dictation of Congress, and would be met as a dangerous stride towards centralizing despotism. Yet it is just this that Wilmot-proviso men and anti-Nebraska men insist upon as to the right of opinion of southern citizens on a great question of local policy, when those citizens choose to cast their lot in one of the common Territories. They, though a majority of the people there, shall not be judges as to what is right and best for themselves. Is not this investing Congress with all power and all discretion over the future State? If the power exists, and may be exercised as to one measure, it may reach to all others; and thus will be sapped from our Federal system the very essence of its strength, the very preservative of its life—an independence in each State to control its own domestic affairs.

If this be not “aggression,” I know not what is—aggression, not merely against southern slavery, but, in aiming at slavery, aggression against a primary and sacred right of citizens to govern themselves—against the privilege of the people to exclusive action in their own behalf within that sphere not intended or expected to be reached by the Government for the Union.

You see, then, Mr. Chairman, on which side rests the truth of the charge of which I have been speaking. Consider a moment longer the relative position of the parties. The South says to the North—to every citizen of the North, “Go, if you wish, to the common territory, and take with you whatever property you may own. You shall enjoy there every privilege that attaches to any citizen of the United States.” On the other hand, the North says to the South and her citizens, “You may go to the territory, but you shall not take with you a certain species of your property, and shall not frame the institutions there so as ever to permit the introduction of that property, even though a majority of the people interested should think it wisest and best.” Now which is the aggrieved party? Which has perfect freedom to go and do as it lists? Which has this freedom curtailed and restricted? Who can wonder that the South, in contemplating the prospect of having her citizens thus discriminated against, thus thrust down from their station of equality, should feel her proud spirit chafe within her, and should rouse every energy of her impulsive but resolute sons to the assertion of her full rights, and the rejection of an odious badge of inferiority?

The northern people would understand this better if the strength of the sections were reversed, and the South, having full control of Congress, should seek by Federal authority to force slavery into the Territories. There is as clear a right to do this as there is to force its exclusion. Would the North submit, if such a right were claimed and exercised? But the South makes no pretension to such a right, and would be forbid to exercise it, because of her position that Congress has no concern in the matter, one way or another. Yet the opposite position could be as easily justified for her, under the contingency supposed, as it can be for the section which is at this time the stronger.

Let us now see how this spirit of aggression is displaying itself in the present emergency—in the bitter strife about Kansas. The effort there, sustained by those who befriend the movement here, is to do by indirection what the enemies of southern institutions failed to accomplish directly. The questions thus raised may be considered now with a view to show how wrongs of aggression grow greater by evasive struggles that lead to worse wrongs.

There is, first, a question as to the governmental condition of Kansas. Is she a Territory without organization, and without law, and struggling for both; or is she already under both, and acting by competent authority? Much as this question has been cumbered by a multitude of allegations, it is easily answered by a few simple facts. Everybody admits that from some source or other Congress has authority to frame temporary governments for the Territories of the United States. Congress in pursuance of that authority did frame a government for Kansas. It is not pretended anywhere that the act by which this was done is not of valid force, and hence there can be no doubt that her government is of a legitimate character. Whatever mistaken policy that government may have pursued, if any; whatever irregularities it may have practiced, if any; whatever wrongs it may have done or permitted, if any—these would not set aside the fact that she has government, and legitimate government, subject in its exercise to all the conditions belonging to other American governments.

But it is alleged that it has grossly abused its functions, and should therefore be made to surrender them and give place to another. Then comes the further question, whether Congress, from whom this Government emanated, shall recognize and uphold it, or shall take by the hand and encourage those in that Territory who, for this alleged cause, act independently of it, and in derogation and defiance of its authority? Had there been abuses of more than a transient character, (admitting, for argument's sake, the charge;) had the abuses been long persisted in, so as to have become a permanent evil, without hope of remedy by ordinary methods, there might be reasonable ground for cutting away the government and substituting a new one; and if Congress, having authority to this end should refuse, the people subject to the government might assume the right of revolution, and protect themselves. But no such condition can be asserted. The chief wrong complained of was one single in its nature, perpetrated upon a single occasion, never repeated, and not of a character to be sustained by even those who are said to have been benefited by it—I

allude to the alleged armed invasion by non-residents to control the elections in the spring of 1855. Admit all that has been said on this subject, and I then aver that the wrong itself is but a paltry thing compared with the danger of using it as a pretext for revolution. Society could have no stability, nor could government command either respect or support, if the people upon the first wrong done, without waiting to see whether it may not be corrected or remedied by existing legitimate means, shall claim a resort which should be taken only by those who are suffering the fixed bonds of oppression. If the wrong were one flowing from any defect or excessive power of the Government itself, the case would be different; for then the fault is not simply in the act done, but is inherent, lasting, and subject to frequent display. But it is not pretended of this instance, that the wrong was induced by any vice in the form or character of the Government. The force at the election was a thing ended, and did not proceed from any prompting, sanction, or spirit of acquiescence by that Government, whether considered in reference to those who had charge of it, or in reference to its nature and principles. Would this force be used again? Would it be even once repeated? That no man can say. Those who have disregarded the authority of the Government given by Congress, and who openly repudiate it as having forfeited any rightful force over them, would not stay their radical opposition till a second trial could be made; but before another election came round to test the working of the new Government, they had already determined to resist it, and to supersede it by a government of their own. There is nothing in precedent, in history, in reason, or even in the dictates of a just indignation, to sanction such extraordinary measures for giving relief from a grievance which was of yesterday, and which has no root in the Government under which it was perpetrated. Destroy authority which for aught that has been seen may be good in itself, because in a solitary instance it has failed to manifest a proper vigor! Destroy an organized system of society which has no vicious element proved upon it by trial and experience, because one wrong has escaped its checking hand! That would be monstrous, and no man will justify it. Yet what less than this is proposed by the Topeka-convention men?

It may be supposed that I do injustice to those men by narrowing their ground of complaint, inasmuch as they also charge that the action of the first Legislature of Kansas was oppressive, and against liberty. I hope, sir, even granting this to be true, it is not seriously adduced as sufficient, before further trial, to justify resistance to constituted authority, amounting to revolution. The American people have enjoyed the forms of free government to little purpose, if they will not at once see an easy and legitimate remedy for such evils, where the elective franchise is not taken away. They have but to select new legislators, and repeal the obnoxious laws. The ballot-box is a certain cure for wrongs inflicted upon the people; and the complainants, if they were a majority of the Territory, could have used it to relieve themselves. Why was not this relied on, instead of striking to destroy the government itself, and thereby raise a commotion threaten-

ing the gravest disasters to all the Union? It would insult the intelligence of our countrymen to suppose it necessary to argue that evils should be borne for a short while, when a peaceful remedy can be found, rather than risk greater by hasty, disloyal, and violent action. How different from this, though, has been the conduct of the free-State men of Kansas. It will not do for them to say, that the ordinary and easy remedy would not have been available for them, because of interference by armed invaders; for they made no experiment to ascertain whether this would be so or not. If it were so once, that made no rule for the future. At any rate, no one could justly conclude such would be the rule without again testing it—much less act upon the conclusion to drive society from its moorings upon the stormy sea of revolution.

So, sir, assuming the truth to be the whole of what is charged, it furnishes no justification for the conduct of the free-State men in disregarding and defying the established government. But when it is known, as every one here must know, that the complaint has been most grossly exaggerated—that the elections were purged of the violence, as far as it was made known, by the regular authority—in fact, by the very Mr. Reeder who now seeks to use the violence as the pretext for extreme resorts—and that the laws denounced as oppressive have had parallels in the laws of the States, but in them, free and apt as are the people to assert their rights, did not provoke the faintest pretense to a resumption of their sovereignty; when these palliatives are considered, the conduct of those men goes deeper and deeper into the wretched abode of lawlessness and crime.

I return to the question, shall Congress uphold the Government it established in Kansas, or shall it aid and abet those who rebel against it? Shall it teach the duty of obedience to regular authority, or, for transient cause give free rein and success to revolutionary opposition? We cannot sanction the action of the free-State men, without encouraging insubordination and contempt of organized government. We cannot accept the free-State constitution without first legitimating the defiance and resistance to the territorial organization which had life and authority from ourselves, and thus taking the attitude of the law-making power, upholding the law-defying power; of the preserver of order lending countenance to the violator of order; of the ruler of the storm yielding to the reckless will of the storm! This, sir, would be the pitiable weakness Congress would exhibit by helping to disarm and prostrate the existing government, at the instigation of those who hold it in contempt, refusing to recognize and obey its authority.

The issue, whether we will sustain or sternly condemn open defiance to regularly-constituted authority, cannot be shifted by appeals in behalf of the right of the citizens of a Territory to frame a State government for themselves, and then offering us the Topeka constitution as a result of the exercise of that right. It was itself conceived and brought forth as the very act that would most easily excuse the attitude of rebellion. However excellent that constitution may be, (and I give no opinion of its merits,) or however wrong it might be to reject it, if it had come before us

under other circumstances, and as in fact the work and choice of the people, we cannot conceal from our minds that it is the offspring of a spirit utterly inconsistent with the obligations due from good citizens to society and government, and should be met and treated as such.

Do gentlemen grow indignant at the oppressions practiced upon a certain class of the people of Kansas, insisting that the greatest of these is the denial of their proper weight in the territorial government, and the refusal afterwards to listen to their wailing remonstrances? Why, sir, what remedy do they propose? All their righteous indignation and swelling eloquence go for naught, if they do not mean that it is a crying outrage to impose laws upon people without their sanction. Proceeding upon the assumption that this is the case in Kansas, what remedy do they propose? A remedy, sir, that perpetrates the outrage in a degree as much higher as is a constitution higher than a mere law. No man will pretend that the Topeka constitution was either made or adopted by but one division of the people of Kansas. The other division, whether the greater or the smaller, being a subject of dispute which we have so far failed to settle, have taken no part therein, and have refused to take part therein, because the movement towards it originated in a spirit and from a purpose that law-abiding citizens could not approve. And yet this constitution is to be taken as emanating from the people of Kansas. Where are the data to show that a majority of that people present it to us? We know that a large portion of them had nothing to do with it. We know there are features in it to which that large portion would not have consented. But we do not know that that portion is not a majority of the people, or that they would not have had influence greatly to modify the constitution to their own views and liking, if, under a sense of duty to the existing government, they had not abstained from all connection with it. Shall we, under such circumstances, proceed as though they had been fully heard and represented? Those who insist that we shall, are thereby condemning themselves, strangling their own relief-cry, extinguishing their own guide-lights, or else exposing the rabid insincerity with which they treat this whole difficulty; and are the less to be trusted, because of the shameless facility they display to redress the alleged wrongs of their friends by inflicting the same wrongs, only more irremediable, upon others.

I did not suppose, until recently, Mr. Chairman, that this Topeka constitution would be seriously pressed upon Congress. I do not believe now that it is pressed with any earnest desire that Congress shall ratify it. It comes here to furnish another theme upon which to distort the views and action of southern men and of the friends of southern equality. It is taken up as another machine, the most available for the present, with which to manufacture agitation for the political market. The signs of the times indicate that the old ones have lost their efficiency, that the springs which move them are fast wearing out, or rather are discovered to be but the contrivance of jugglery, and hence the necessity for some new device to catch popular favor and patronage. The furor against the Kansas-Nebraska act is subsiding, because the people have seen by

what false alarm they were misled in regard to it. The repeal of that act, or the simple restoration of the Missouri restriction, so clamorously demanded a short while ago, have failed to supply a hopeful issue to slavery agitators, and they must therefore try what virtue there is in this new shift. That this is no mere conjecture must be apparent from the recent floundering struggles of the new-style Republican party in search of some ground for a safer foothold, and from the eager alacrity displayed here and elsewhere in finally settling down upon the Topeka constitution. It is taken as the best hope of its defenders for future party aims. Their battle for the presidency is to be fought upon it.

Well, sir, we have but to expose the distortion of the true issue in this, as has been done in reference to other points in the controversy about Kansas, and the result of the battle will only be shame and confusion to those who offer it. Whether here or before the people it cannot be that contempt and defiance of law and authority will be sustained, or that a portion of the people of a Territory, probably the smaller portion too, will be permitted to impose a constitution upon the whole people in which the other portion have had no voice, nor even the pretense of any agency, directly or indirectly. A cause which upholds Government, and at the same time carefully guards the rights of all the people, must be a cause that cannot fail in this free country, the Topeka sages to the contrary notwithstanding.

But after all, sir, it is the slavery question, lying behind these others, that makes the trouble which so much engages our attention. If we could settle that upon an enduring basis, there would be little more heard of the others. It presents itself at every turn, is forced upon us at all points by the antagonists of southern institutions, and we cannot leave it to be disposed of as their prejudices and enmity would prescribe. Delicate as is the subject, and reluctant as we are to have the even tenor of American progress disturbed by its agitation, we are not permitted to pass it by unnoticed. Though a fair and just basis of settlement has been adopted, the aggressors seem to be enraged all the more, and we are now driven to put on our armor in defense of that basis. We can now see why it ought to be maintained—why we should to-day, and forever, abide by the principles of the Kansas-Nebraska act in their relation to slavery.

Now, sir, in view of the fact, that there is a radical difference of opinion as to the nature and justness of slavery itself, a difference which can never be reconciled—in view of the fact that there is a radical difference of opinion as to what power Congress may or may not exercise over the subject of slavery, and in view of the further fact, which I believe to be as fixed as any fact can be which is yet in the womb of the future, that neither party will tolerate the entire enforcement of the abstract views of the other, the question comes back upon us, how can we get rid of all this difficulty? How can it be removed? I confess I see but one way, and gentlemen may smile when I announce it, for they will find in it but a reiteration of the principles of the Kansas-Nebraska bill. I see but that one way, and that is, to acknowledge the equal rights of the citizens of the sections, and their claim to indiscriminating

protection of their property, and to refrain from interference with the local domestic policy of either the States or Territories. I know these propositions involve the very points which make the strife; but when I see in them such evident fairness, equality, mutual forbearance, abstinence from provocation, honorable avoidance of the causes of conflict, and reliance upon the people in matters which most nearly concern themselves, and see in the movement towards any different course inevitable discord, and if pursued inexorably, inevitable disunion, my only hope is that the northern people will not continue to sanction persistence in any policy founded upon the reverse propositions.

Mr. STANTON. I desire to know of the gentleman whether, in the settlement of this principle, the South will surrender any of her claims? What will she abate of her demands?

Mr. MAXWELL. The South surrenders nothing; but the settlement she desires contradicts that charge which is made against her, and against southern men, that they want to use the power of Congress to extend slavery. We disclaim that here and elsewhere. We not only do not ask that Congress should use its power to extend slavery, but we say that Congress has no concern whatever with the matter, and that slavery should be left free to take such direction as the will of the people of every separate government in the Union may prescribe, so far as they are locally concerned, subject to rights secured by the Constitution. And now, sir, what does the North surrender by the enforcement of the propositions I have indicated as so reasonable and just? Nothing. Will the gentleman tell me what she surrenders?

Mr. STANTON. She surrenders the powers which have been exercised by Congress from the organization of the Government to prohibit slaves in the Territories. That is what she surrenders.

Mr. MAXWELL. I commenced, Mr. Chairman, by the assertion, that a critical analysis of the legislation which has been presented to the view of the House, as showing the exercise of this power, would show that, with the single exception of the Missouri restriction, such a power has never been exercised as that which is destructive of property rights, or prohibitory of the free exercise of those rights. What the gentleman says the North surrenders, we deny she ever had to surrender. But I cannot go into a discussion of that question now.

I will say further, as to the question propounded by the gentleman from Ohio: the North insists on the exercise by Congress of a power which, if exercised in full authority, will strike so violently against the views of right of the southern people, that they will not feel themselves true to their interests and their duty, but as wanting the spirit which belongs to them as freemen, entitled to the protection of the Constitution, if they should quietly submit. Even granting that such a power does exist, let me say to the gentleman that this controversy is now in a position to render its exercise fatal; and if it should again be exercised there will be resistance, and the country will be brought into a struggle from which the Union cannot escape without dismemberment. That is my belief, sir. The South asks for the

exercise of no power by Congress, but only to be let alone.

Mr. WALBRIDGE. I want to know if the gentleman means to say that, if this Government exercise any acknowledged legitimate power vested in it, it will through that action produce a dissolution of the Union?

Mr. MAXWELL. I do not say any such thing as that.

Mr. WALBRIDGE. I understood that to be the sentiment.

Mr. MAXWELL. No, sir; oh, no.

Mr. WALBRIDGE. Did not I understand the gentleman to say—

Mr. MAXWELL. I will tell the gentleman what I said, or intended to say, if he will listen a moment. I meant to say that we denied such power in Congress; but that if you were satisfied Congress had it, and that it was its duty to exercise it, and if it did exercise it, then, granting you are right and we are wrong, nevertheless, with our convictions, our sense of duty would hold us recreant in not resisting.

Mr. WALBRIDGE. I did not so understand the gentleman.

Mr. MAXWELL. That is my idea—that whatever may be your opinion about the power, and whatever you may feel to be your duty, we in the first instance meet you by denying the power; and, standing on a denial, we say that if you exercise it, you do that which comes in such deadly conflict, not only with our interests, but with that protection which we believe the Constitution gives to us, that we cannot submit and still feel that we escape injury and dishonor.

Hence, Mr. Chairman, impressed as the South is with the belief that the basis I have described is the only one upon which there can be any safe and permanent settlement of the controversy between the sections, and recognizing in the principle which defeated the Wilmot proviso, and afterwards repealed the Missouri restriction, a conformity to that basis, she is satisfied to stand upon that principle, and determined, not more for her own sake than for the sake of the Union, which she would not lightly abandon, to hold fast the rights it affirms. Freedom of the people to regulate their own affairs, untrammelled by commands from Congress, she must, at all hazards, maintain, or else consent to be crippled, dwarfed, marked as the stricken victim of inimical central power. But she cannot hope, of herself, to keep the country to this; and we naturally inquire to whom she can look for aid. It must be found somewhere in the North—in some one of the divisions into which parties there are separated. Where? I will turn briefly to this inquiry.

First—though, let me say, that it is the enemies of southern slavery who are pressing upon us the issue—they demand that Congress shall legislate so as to curtail us of our rights in Kansas, and so as to force upon the people there the sort of institutions the majority here thinks best, rather than leave this to the free choice of those people. Abolitionists and the Republican party—the same in their hostility to the South—mean to give no rest here, or in the country, till they have abolitionized all the Territories, or have been driven to cease their mischief by the condemnation of the popular verdict. They present us the alternative of submission, or war to the utmost;

and we have no option but to accept it, and, I trust, no spirit but to do the duties of the trial as becomes the manhood of sturdy freemen.

Who among the men, or which among the parties, of the North, must be relied on to aid in checking their dangerous schemes? In opposition to their schemes, we must resort to the ground to which I have pointed, as furnishing the only sure and safe escape from all this controversy. Who will stand there with us? It is particularly important that we should know; because the ardor, fierceness, and strength of the attack we will be called to repel will be far greater than was ever encountered before; and because the issue involves no less than the safety and permanency of our Government. To "conquer a peace," the triumph must be complete.

Judged by all the rules suited to the ascertainment of human action, there is but one party in the North upon which the country can rely in this emergency, and that is the Democratic party. Trace it through the past, and, however it may have halted and wavered at times, it will be found that history vindicates the assertion. Time will not allow me more than a simple allusion to very recent facts to sustain it. The Kansas-Nebraska bill, which passed two years ago, and which embodies the principle upon which alone the sectional controversy can be safely settled, had no northern supporters in Congress but from the Democratic party. In this Congress, to which members were elected amid the whirlwind of popular excitement unjustly provoked against that bill, there is no northern member but in the Democratic party who did not lend his voice and influence to sweep down those who had here helped to pass it, and who does not now condemn it. If it be right that Congress shall not interfere to shape the domestic institutions of an inchoate State, and if that be the basis to which we are brought by the Kansas-Nebraska bill—if this basis be the only one upon which we can hope to avert the inequality and injustice threatened by Abolitionists and Republicans—and if it must be maintained that the Government and the Union may be saved from the dark vortex into which the accomplishment of their purposes would plunge it, how can the country rely upon any for these ends, whose position was that of antagonism to the bill, rather than upon those who justified it from the beginning, justify it now, and have given every pledge of a readiness for political martyrdom in its support for the future?

But it is urged that the American party can be even more safely trusted to put the sectional controversy to rest than the Democratic. Upon what basis? Upon any other than that I have indicated as just to the South, just to the North, and alike honorable to both sections? You have seen, sir, that I hold that to be impossible. Then, why look to the American rather than the Democratic party? Does its condemnation of the Kansas-Nebraska bill, which is now the special object of attack by the Republican party, endow it with special fitness to defend and maintain those principles of the bill which that Republican party denounce and intend to eradicate? To say this is to say that the surest method to accomplish a given end is to begin by giving excuse and comfort to those who strike against that end.

This is an extraordinary pretension of the Amer-

ican party, as it vaunts itself and its purposes in general terms, that it means to put an end to sectional agitation. That its merit in such an undertaking may be the more highly appreciated, it assumes that all other parties, the Democratic included, are encouraging and feeding that agitation. Is this true of the Democratic party? Does it seek to stir and aggravate sectional strife? As well might you say, sir, that the members of a society who unite to prevent injustice and wrong where rights under that society are sought to be denied or invaded, are chargeable with the strife that may ensue, as to say that this charge against the Democratic party is correct. That party takes no cognizance of sectional questions till some voice is raised to sound a note of attack upon a sectional interest. It takes no step in the direction of sectional issues till called to defend some sectional right. It adds no clamor to any sectional agitation till its high and strong words are drawn out in resistance to sectional injustice. Let me ask gentlemen of the American party, especially those of the South, whether they hold it proper to do less?—whether they, when a Wilmot proviso is threatened, or a Missouri restriction sought to be perpetuated, both denying the equal privileges of southern citizens, would remain silent and inactive, and tamely let the wrong be done? If yea, they must be content to incur the censure of all who hold the rights of their section worth defending and preserving. If not, then what less can they do than has been done by the party they accuse?

The Democratic party has simply stood forth in defense of southern rights when attacked. Without doubt, this has provoked the aggressors to loud clamor and angry agitation. But shall we, for this, forbear to offer defense? Shall we shrink from asserting and maintaining a right, because the violators of that right may thereby be roused to fury? This is what the American party would do, if its complaint against the party with which I act gives a true indication of its spirit. It will put an end to agitation by declining to resist the wrong-doer, for if resisted there will necessarily be strife; by quietly taking upon the neck of the South the yoke prepared for her, for if refused there will be a struggle; by giving full rein to the crusaders against slavery, for if checked they will rend the heavens with their fanatical mad outcry; by ignobly yielding the things that are ours to the first demand, for if we hesitate the noise of trouble will come; by closing the ear, that it may not listen when violence is preached, and chaining the tongue, that it may not remonstrate when injury is offered, for if ear and tongue are free to perform their functions, the coming violence and injury will rouse even the most abject among us from the stupor of silent uncomplaining submission.

Again, sir, I ask if the American party would do less than resent and resist injustice to the South? Whatever may be thought of other portions of the party, I am unwilling to presume that the southern portion would. Then, if agitation is to be repressed by them, how will they go about it? It is from those who make war upon the South that the evil flows. Unless they can be silenced, or driven from their wicked purpose, or unless the country can be brought to take a firm and fixed position upon a principle applicable to

questions of slavery which shall disarm them, they can never be withheld from their agitating schemes. I fear the American party has no skill to meet either of these conditions. It is too prone to the "pretermittin'" process; and, when tired of that, turns too blandly to smile upon the men who are really guilty of raising the agitation; for when they condemn the Administration for its agency in the passage of the Kansas-Nebraska bill, as they did in their late Philadelphia convention, they undoubtedly give encouragement to those who so strongly resisted the meed of justice to the South conferred by that bill. Not thus, nor by putting forth a candidate for the presidency whose views of present disturbing questions are unavowed, will it quell the heaving waves of anti-slavery fanaticism! How, then, is its pretension to do this to be accomplished? Some say, by simply letting the troublesome questions alone. How easy that would be if those who provoke the evil, by efforts to disturb sacred constitutional rights, would only let them alone at their bidding! They will not do it. They insist upon doing the wrong. They insist upon denying the South what she claims as her clear right. In this state of things, to refuse to meet and resist them for fear of agitation is to surrender the whole ground, and to give up the South a helpless prey to her persecutors. Is the American party prepared for this? Its declarations so indicate; and it must be met and judged accordingly; but if its members disavow such a course they justify the Democratic party for the very thing they pretend to condemn. Alas! it is easy to denounce others in general set phrase. It is easy for those who have no sound faith for themselves to be ever discrediting the faith of others; but it is also fortunate that the demands of practical life are almost sure to expose the frailties men hide behind their disguises.

Now, sir, there will be no abatement of agitation till a principle is evolved upon which all the country can stand. The virtue of temporizing is lost. A solid basis must be found, where men and sections can honorably stand together. As long as we have slavery, there will be fanatical zealots to rail against it; and even among more temperate men who do not understand its economy and appreciate its true spirit, there will be strivings against it. The difficulty, so as both to avoid the violation of constitutional obligations, and to keep down agitation, is to meet this fact in the right way. I have already pointed to the only safe method of solving this difficulty. We must, in reference to Territories, abide by and maintain the principle adopted in the Kansas-Nebraska bill, that Congress has no authority to interfere with the question of slavery in the Territories, and must leave it to the regulation of the people there under the Federal Constitution; and, in reference to other questions of slavery, that Congress must faithfully observe the guarantees of that Constitution. When once the policy marked out by this view is firmly established, the strife and the evil will have been conquered, but not before. The Democratic party is moving to this end. Seeing the hopelessness of staying agitation while any shifting or uncertain basis is occupied, it prefers to plant itself upon this position, as upon an immovable rock, and there boldly encounter what storms may come,

assured that if its country cannot at last find security there, security will not be had anywhere, nor peace any more gladden her hopes.

If this be agitation, the American party must make the most of it. We are willing to risk all the damage that can be inflicted by its attack upon such a position. Our Constitution and our country demand that we shrink from no peril we incur in maintaining it.

But I have not done with this charge upon my party. I am not content with simply casting it off. I retort it upon our accusers, not in the spirit of bravado, but for causes that justify me in so doing. I charge the American party as guilty of having contributed to sustain the agitation of which, as I have shown, they unjustly accuse us. In its first days of triumph, the days when it was enabled to send into this Hall from the North a majority of its adherents, and when it sent to the Senate such men as have there superseded sound national Democrats, no one will deny that it had a spirit which looked to southern slavery as a stupendous curse, needing to be dealt with as such by all the agitating influences which could be successfully used against it. But since the present American party claims to have purged itself of those who, in the beginning of its career, thus prostituted its character, is it yet in a position to exempt it from the charge I make? Not at all. As I have already intimated, the countenance it gives to the Republican party by its stab at the Kansas-Nebraska bill in the Philadelphia convention, can have no other effect than to strengthen those who agitate against that bill. But, besides this, the spirit of its Representatives here is to provoke agitation, even in the South, by raising and pressing a question as to the soundness or unsoundness of northern Democrats upon questions connected with the rights of the South. Whether or not those questions be settled as the South would have them, (and I believe they are,) they are, at least so far as the present object of controversy is concerned, settled one way or the other; and crimination now in regard to them can have no other end than to stir the agitation which is so much deprecated. If, therefore, it be the special mission of this new party to stop agitation, it shows its aptness for the work by throwing in fuel which can but keep it flaming.

But this complaint against northern Democrats, if it amounts to anything, is a complaint that they were not willing to give the South enough of what she claims to be her due. Supposing this true, there was no other party of the North, not excepting the American, willing to give so much. All others, as will not be denied, were for retaining the prohibition against southern citizens, which those northern Democrats helped to remove, and that would have been the absolute denial of even any shadow of the right we claim. Would this have been better or more satisfactory? Now, unless these Americans intend to ask for more than was obtained—and that they dare not do, for it would provoke agitation, and agitation they profess to abhor, and intend to make it their special business to repress, standing for that purpose, according to their own pretension, as a break-water between other parties; or unless they present in the North a party willing to practice more equal justice to the South than the Democratic—and that is utterly hopeless, for none has yet gone

even so far in her behalf; they will but do mischief, and weaken the cause of the South by their war upon northern Democrats. The Republicans understand this perfectly; and hence their kind readiness, as evinced in the early part of our session, to offer encouragement and supply munitions in promoting such war. They see that, in proportion to its success, will be opened the way for their own success. They see further to their advantage, that, while they are threatening the destruction of the citadel itself, there are Americans dividing its defenders, and vexatiously busying their energies to save some minor outwork.

The example thus presented is not one to be followed—I certainly will not follow it. Give me the Nebraska principle of free access for all citizens with their property to common territory, and of protection for that property there; and even though given with qualifications to which I object, I will not sacrifice the principle itself in supreme concern about those qualifications. Who would not, sir,

“In troubles reign,
Losing a mite, a mountain gain?”

We are in the face of a mighty opposition which would take from us the principle and the undoubted privilege it confers, and would place in its stead eternal exclusion of the property of southern citizens from common territory, and yet there are those—some, like the gentleman from Tennessee, [Mr. ZOLLICOFFER,] because a right reason is not given, and others, like the gentleman from Kentucky, [Mr. COX,] because they cannot, on all points, find a full agreement of opinion—who would jeopard all by a quarrel with friends as true as themselves to the main right.

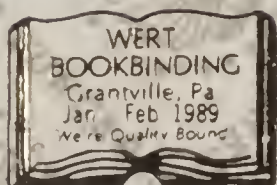
It does seem to me, Mr. Chairman, looking to the state of the sectional controversy, to the mode by which it can be honorably and permanently settled, to the facts which point to those in the North who agree to that mode, and to the hopelessness of settling it by any other, that to counsel the southern people to distrust of northern Democrats in this crisis, is to counsel them to suicide, or else to unending strife.

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